

**REMARKS**

***Preliminary Matters:***

Applicants thank the Examiner for acknowledging Applicant's claim to priority and receipt of the priority document. Further, it is noted with appreciation that the Examiner has considered the references cited in the Information Disclosure Statements filed on August 26 and November 22, 2006, respectively.

***Disposition of Claims:***

Claims 1-11 are all the claims pending in the application and have been rejected. Claims 2, 6 and 7 have been canceled, claims 1, 3-5 and 8-11 have been amended and claims 12 and 13 have been added.

***Claim Rejections Under 35 U.S.C. § 112:***

Claims 5-7 are rejected under 35 U.S.C. § 112 (second paragraph) as being indefinite. It is submitted that the above amendments to the claims overcome this rejection.

***Claim Rejections Under 35 U.S.C. §§ 102 and 103:***

Claims 1, 3-7 and 9-11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Smith (U.S. Patent No. 3,192,651). Further, claims 1, 2, 4-7 and 9-11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Laio (U.S. Patent No. 6,594,921). Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over either Smith or Laio. For the following reasons, Applicants respectfully traverse the Examiner's rejections.

The claims have been amended to more clearly define the toe section and the heel section. More specifically, the claims recite:

a toe section, including a forward sole portion and a forward upper portion for receiving a forward portion of a foot including at least toes thereof;

a heel section, including a rear sole portion and a rear upper portion for receiving a rearward portion of the foot including at least a heel thereof

Accordingly, Applicant's invention provides a shoe which incorporates a discrete toe section and a discrete heel section. Each section includes both a sole portion and an upper portion. Further, the heel section, including rear sole portion and the rear upper portion (counter), is entirely rotatable relative to the toe section. This is entirely different from the prior art cited by the Examiner which merely disclose shoes which have openings in only the upper portion of the rear of the shoe.

More specifically, both Smith's and Laio's shoes have rear openings whereby **only the upper portion** of the rear of the shoe is pivoted relative to the toe section. That is, in both the Smith and Laio shoes, **the rear sole portion remains in position**, rather than being rotated relative to the toe section of the shoe.

This feature and the related method steps are clearly defined in the Applicant's claim as presented above and are distinguishable over the prior art.

In more detail, Laio discloses a shoe which has a pivoted counter portion. The lower end of the counter is pivotally connected to a rear end of the sole of the shoe. Fasteners are mounted in each upper end of the two opposite sides of the opening.

The Laio shoe, due to its construction incorporating hinges and pivots, is considerably more complex to construct, in that the hinges and pivots are required to be securely attached to the leather or other material forming the body and sole of the shoe. Furthermore, in use, these

hinges and pivots could be quite uncomfortable in that they may rub against the wearers' foot.

Also, in putting the shoe on and off, the steps required to undo the side fasteners and then hinge the back of the shoe would be quite cumbersome for the wearer.

Smith discloses a shoe having a rear opening. The rear opening is formed by releasing a flap. With the flap open, the wearer inserts his foot into the shoe, and then raises and secures the flap.

This shoe is, due to its construction in having the flap at the very rear of the heel, considerably more difficult to take on and off.

In the Applicant's invention as claimed, only the toes are initially inserted into the shoe, with the base of the wearer's heel positioned atop the insole, enabling easy manoeuvrability of the foot into and out of the shoe. This is particularly useful for infants and disabled persons, when another person may be required to assist the wearer, and can therefore grasp the heel of the wearer to retain it in position whilst supplying the toe section over the toes of the wearer.

Once the toes of the wearer are correctly placed within the toe section, the entire heel section (which is adapted to surround the entire heel of the wearer) is twisted or rotated into position and the fastening means is attached. In use, as the heel section surrounds the entire heel of the wearer, appropriate ankle support is therefore provided to the wearer, which is particularly important for children and disabled persons.

For the Examiner's convenience, Applicants have attached some photographs illustrating some examples of the claimed shoe.

Based on the foregoing, it is submitted that the prior art fails to teach the claimed shoe and method recited in the above independent claims. Further, it is noted that the prior art does

not teach or suggest that which is recited in the dependent claims including new claims 12 and 13.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Brian Hannon/

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WASHINGTON OFFICE

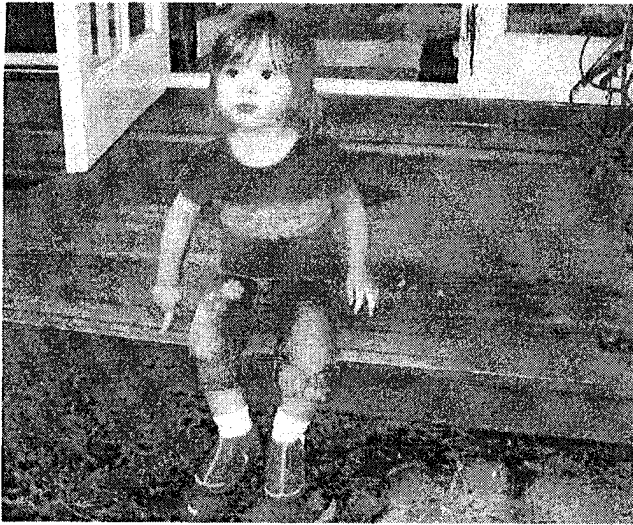
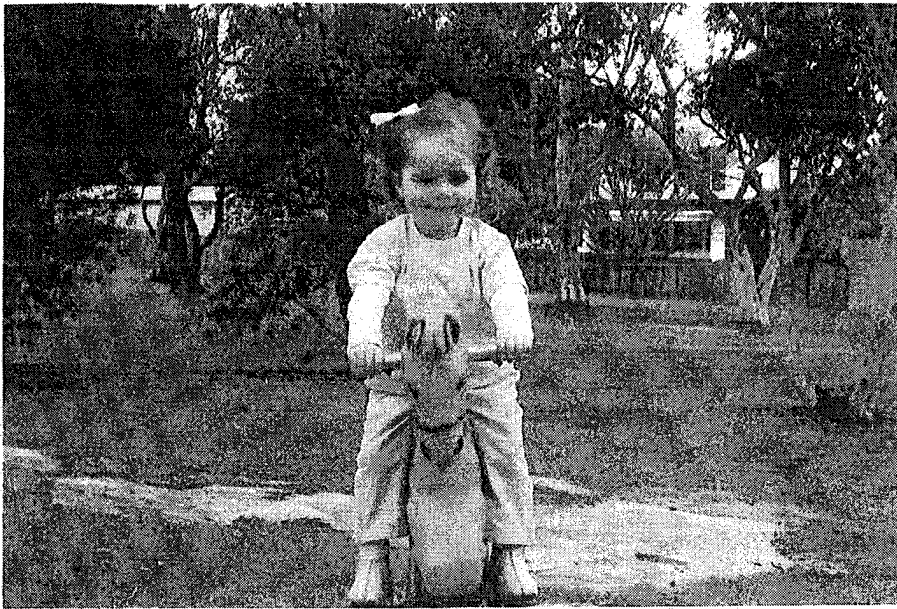
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CUSTOMER NUMBER

Date: April 30, 2009

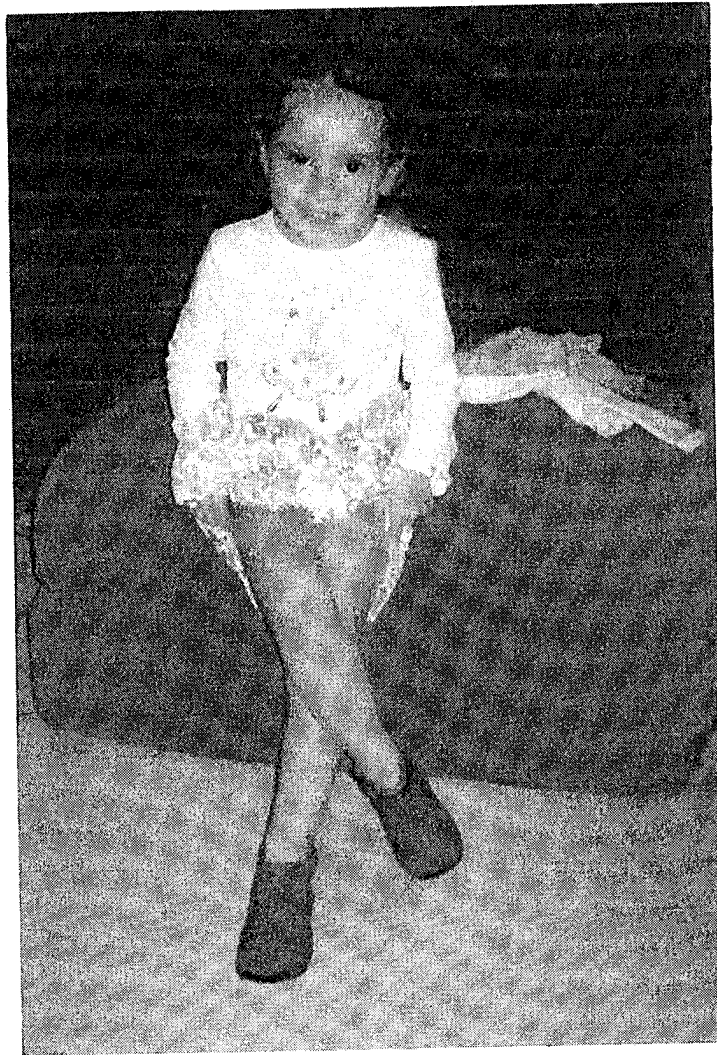
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Brian W. Hannon  
Registration No. 32,778

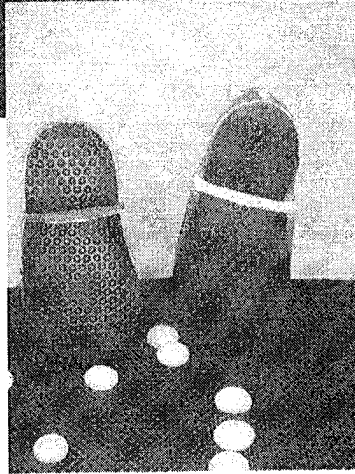
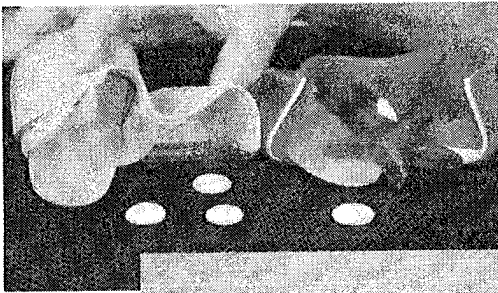
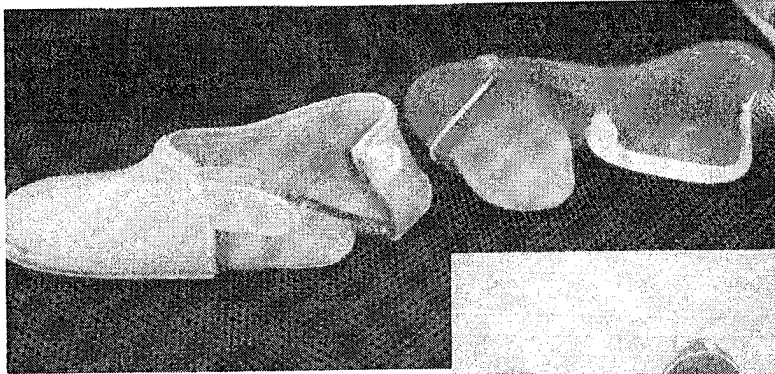


NOTE SNUG FIT  
around ankle



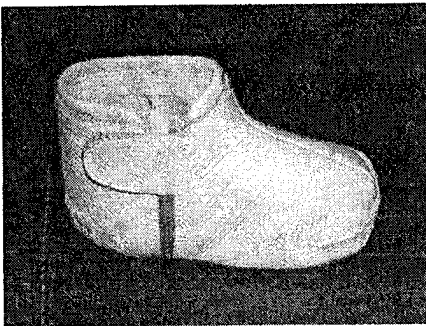


NOTE INSOLE  
FIXED TO  
FRONT PART



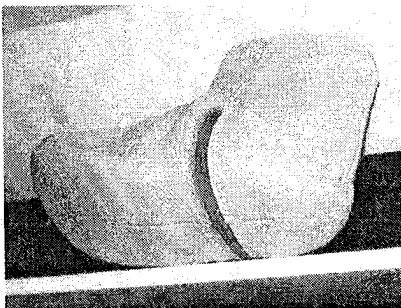
#### "SIDE - OPENING" MODEL

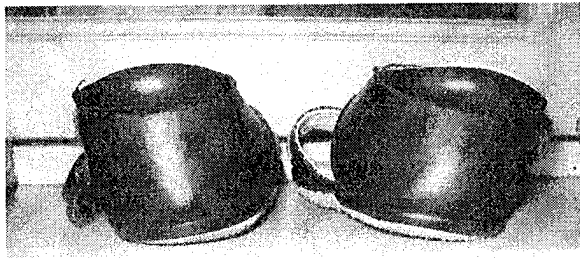
The photographs illustrate the opening of the rear section of the boot, suitable for infants from five or six months old and onwards. Older children and adults would use the "down - opening" model.

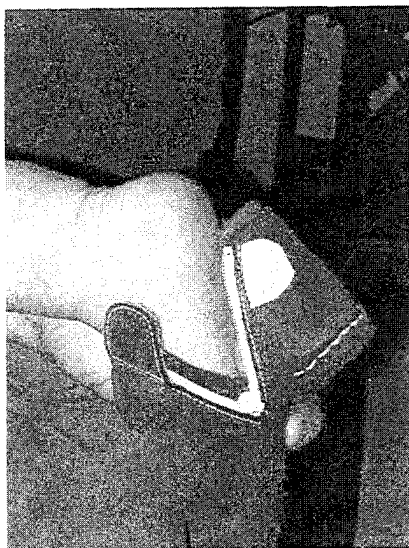


#### **"THE PRE-WALKER / CRAWLER" BOOTEE**

For protection, support and warmth of the very young infant for crawling or in the stroller. A moccasin style bootee with insole support, yet soft and pliable. A delightful product with an enormous market potential and admired by all who have seen it.



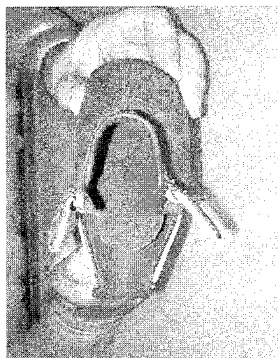
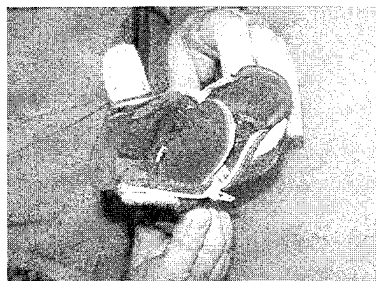
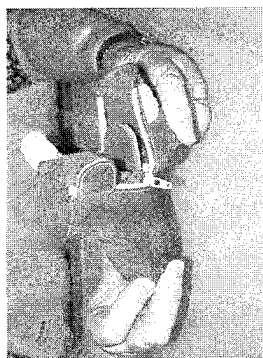
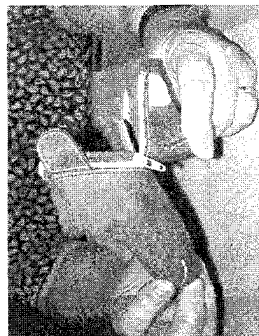




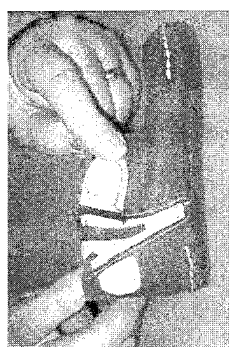
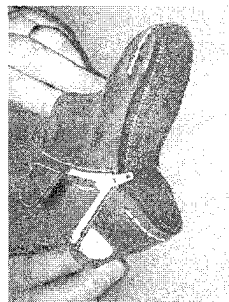
Unobstructed entry of foot into  
body of boot.



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NOTE FIXED INSOLE



E L

THE "DOWN - OPENING" MODULE - "MY BOOTS"